



July 19, 2006

The Honorable Jane Harman
Ranking Member
House Permanent Select
Committee on Intelligence
United States House of Representatives

Re: Support for H.R. 5371, "Lawful Intelligences and Surveillance of Terrorists in an Emergency by NSA Act"

Dear Congresswoman Harman:

On behalf of Patriots to Restore Checks and Balances and its alliance of conservative and libertarian individuals and organizations, I am writing to express strong support for H.R. 5371, "Lawful Intelligences and Surveillance of Terrorists in an Emergency by NSA Act" (LISTEN Act), recently introduced by you and Representative John Conyers and co-sponsored by 57 of your colleagues in the House.

Since late last year Americans have learned that the federal government has been spying on their telephone and electronic communications as well as their financial transactions. These operations have been conducted by the National Security Agency (NSA) and Treasury Department on the self-imposed authority of the president without any oversight from either the judicial or legislative branches of our government. Our Founding Fathers specifically created the checks and balances system to prevent just such an abuse of executive power.

The president has claimed that as commander in chief he has inherent authority under the Constitution to conduct surveillance on Americans. Now he is proposing legislation that would not only enshrine this claim into federal law, but would give him even more power than he has publicly asserted under his illegal NSA domestic spying program.

The LISTEN Act is a significant step to ensure that intelligence operations comply with the law and safeguard Americans' civil liberties. Most importantly, this legislation makes it clear that the president's intelligence activities must fully comply with the Fourth Amendment and the Foreign Intelligence Surveillance Act (FISA). This means that the government must obtain a court order before monitoring Americans' communications and provides a mechanism to expedite emergency warrant applications.

Further, the LISTEN Act reinforces FISA as the exclusive authority to conduct electronic surveillance of Americans on U.S. soil for intelligence purposes. Also notable is the fact that this bill specifies that Congress's authorization of military force does not include any authority for electronic surveillance outside of FISA, as the administration has asserted.

Congressional and judicial oversight is absolutely essential to preserving and protecting the rights guaranteed to Americans by the Constitution. While the president should not have to be instructed on how to comply with these principles, this legislation lays out a procedure for Congressional oversight that the president is required to follow.

These domestic surveillance programs were hastily put into place shortly after 9/11 in the same manner in which the USA Patriot Act was created while our country recovered from terrorist attack. In crafting the Patriot Act, Congress recognized that some provisions may require re-examination and included sunset provisions in the bill. Some of these more controversial provisions were revised or removed during the reauthorization of the law last year, exemplifying how oversight and transparency worked to improve public policy. Yet after more than five years, Congress still has not been fully briefed on controversial intelligence operations as required by the Constitution.

Congress should move quickly to pass this important and responsible piece of legislation and the president should sign it into law. We have a careful system of checks and balances to ensure that our rights are not overridden, especially during a time of war in the name of national security. The LISTEN Act upholds these principles and would protect ordinary Americans from unlawful intrusions on their privacy by the government.

I am pleased to join Bruce Fein, the American Bar Association, the American Civil Liberties Union, the Center for Democracy and Technology, and the Open Society Policy Center to support the LISTEN Act.

Sincerely,

A handwritten signature in black ink, appearing to be 'Bob Barr', written in a cursive style.

Bob Barr
Member of Congress, 1995-2003
Chairman, Patriots to Restore Checks and Balances